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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,275	03/13/2001	Daniel Bruce Anderson	ANDD100USA	1225

24339 7590 08/13/2002

SKINNER & ASSOCIATES
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SUITE 201
HUDSON, WI 54016

EXAMINER

ARNOLD III, TROY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,275

Applicant(s)

ANDERSON ET AL.

Examiner

Troy Arnold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

2. The abstract of the disclosure is objected to because it contains legal phraseology, "comprising." Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "said eyeglasses" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

1. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2 and 15 make it unclear whether Applicant is claiming a) a protective device only (cover 10), or b) the protective device with a pair of eyeglasses inside, or c) the protective device with a cell phone inside. For

examination purposes, it has been assumed that Applicant is claiming item b) the protective device with a pair of eyeglasses inside.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Eastman. Regarding claim 1, Eastman teaches a protective device 10 comprising a body portion 20 with an edge (at either end), the edge defining an opening through which an item may be inserted, wherein the body portion protects the personal item and wherein a portion of the item is accessible (through either end) and may be used to hang the item. Regarding claim 2, the protective device of Eastman could clearly be used to protect a cell phone. Regarding claim 3, Eastman intends his device to protect eyeglasses, and one bow of the eyeglasses could be accessible (outside of the protective portion 20) to hang the eyeglasses. Eastman clearly teaches the limitations of claims 4, 5 and 8. Regarding claim 6, Eastman's material is adapted for cleaning lenses. Regarding claim 7, the eyeglass bow could extend through an aperture (on either side), the aperture being in a predetermined position. Regarding claims 9 and 10, see column 4, line 29, where the material is taught to be elastic, to draw the portion 20 around eyeglasses. Regarding claims 12 and 13, the front of Eastman's protective

device 20 has a display portion and an aesthetic design. Regarding claim 15, Eastman teaches a flexible, portable protective device 20 for eyeglasses comprising, a body portion 20 of stretchable cloth like material, configured as a pouch, and having an edge (at either end) defining an opening through which the eyeglasses may be inserted, an elastic band about the edge, and a bow aperture (one end) in a predetermined position so that a bow (can) extend through the aperture, wherein the body protects the lenses, and wherein a portion of the eyeglasses are accessible, and wherein the bow can be used to hang the eyeglasses externally.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eastman in view of Official Notice. Eastman teaches all the limitations of claim 11 except the draw band. (See column 4, line 24, where Eastman teaches other closure means.) Official Notice is taken that draw bands *per se* are old obvious and well known in the storage and packaging arts. It would have been obvious in view of Official Notice taken to close one end of Eastman's protective device with a draw band for the purpose of allowing a more convenient method of securing an end. Eastman teaches all the

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limitations of claim 14 except for the display portion including promotional material.

Official Notice is taken that promotional material - this may include brand names, logos, monograms, etc - on objects is old obvious and well known in a wide variety of arts. It would have been obvious to incorporate such material onto the display portion of Eastman's device for the purpose of personalizing it. Furthermore, such promotional material is essentially an arbitrary design choice, and not patentable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Monday-Friday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-0302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

TGA
August 8, 2002



Mickey Yu
Supervisory Patent Examiner
Group 3700